



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 9, 1996

Ms. Christine Rodriguez
Staff Attorney
Legal and Compliance, MC110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR96-1841

Dear Ms. Rodriguez:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your requests were assigned ID#s 100538 and 101953.

The Texas Department of Insurance (the "department") received three requests for copies of all responses to the Request for Interest and Qualifications ("RFIQ") of organizations interested in designation as the Texas Private Passenger Automobile Statistical Agent. The department received six responses. You inform us that four of the companies who responded, Acxiom, National Independent Statistical Service, National Association of Independent Insurers and Texas Insurance Checking Office, have withdrawn their trade secret claims and that consequently the department released copies of the complete proposals of those companies. Two companies, Policy Management Service Corporation ("PMSC") and Insurance Services Office, Inc. ("ISO"), have not withdrawn their trade secret claims; therefore, pursuant to Government Code section 552.305, the department requests that this office rule on the companies' trade secret claims.¹ You say that the department will release to the requestor sections two and twelve of ISO's proposal.

¹You originally asserted that the department may withhold the requested information from required public disclosure based on section 552.104 of the Government Code until the time when department staff members recommend a designation to the Commissioner of Insurance (the "Commissioner"). You withdrew your section 552.104 claim in your letter of September 3, 1996 to this office.

This office invited PMSC and ISO to provide us with arguments as to why their proposal information is excepted from required public disclosure under the Open Records Act. PMSC has responded to our invitation by stating that the department "can release our proposal submitted in response to the RFIQ for private passenger automobile insurance statistical agent services except for the pages we have marked confidential." ISO asserts that certain portions of its proposal are excepted from required public disclosure based on section 552.110 of the Government Code as trade secrets and has provided arguments to support its position.

Information is not confidential under the Open Records Act simply because the party submitting it anticipates or requests that it be kept confidential. *See* Open Records Decision No. 479 (1987). Under Government Code section 552.305, a third party whose rights are implicated by the release of requested information has the burden of showing this office how the information is protected by specific exceptions to required public disclosure. *See* Open Records Decision No. 575 (1990) (discussing predecessor provision). PMSC raises no exception in the Open Records Act to the required public disclosure of the information in its proposal. We therefore cannot conclude that the department may withhold from public disclosure any portion of the PMSC proposal.

We have reviewed the arguments of ISO and conclude that ISO has established that portions of its proposal are trade secrets. Open Records Letter No. 96-0476 (1996); *see* Open Records Decision No. 552 (1990). Accordingly, the department must withhold from public disclosure the Overview of Computer Resources and Capabilities, Data Collection and Maintenance, Data Quality and Reliability Procedures, Estimated Cost and Allocations to Reporting Companies, and Data Security.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo", written in a cursive style.

Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 100538

Enclosures: Marked documents

cc: Mr. John Paul Halvorsen
Insurance Services Office, Inc.
7 World Trade Center
New York, New York 10048
(w/o enclosures)

Mr. Terry Porter
Manager
Texas Insurance Checking Office, Inc.
P.O. Box 15
Austin, Texas 78767-0015
(w/o enclosures)

Ms. Virginia Prevosto
Insurance Services Office, Inc.
7 World Trade Center
New York, New York 10048-1199
(w/o enclosures)

Mr. David Conrad
National Independent Statistical Service
P.O. Box 68950
Indianapolis, Indiana 46268-0950
(w/o enclosures)

Mr. Bob Dauler
Policy Management Systems Corporation
2551 Vintage Lane
Livermore, California 94550
(w/o enclosures)

Mr. Stuart Yakes
Vice President, ISS
National Association of Independent Insurers
2600 River Road
Des Plaines, Illinois 60018-3286
(w/o enclosures)

Ms. Susan E. Kennedy
Acxiom Corporation
P.O. Box 2000
Conway, Arizona 72033-2105
(w/o enclosures)